

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

TROY GROVE QUARRY, A DIVISION OF  
RIVERSTONE GROUP, INC., VERMILION  
QUARRY, A DIVISION OF RIVERSTONE  
GROUP, INC.

Employer

and

CRAIG S. PARSONS  
Petitioner

and

Case 25-RD-269960

INTERNATIONAL UNION OF OPERATING  
ENGINEERS, LOCAL 150, AFL-CIO  
Union

ORDER

The Union's Request for Review of the Regional Director's Decision on Challenged Ballots and Objections, Order Directing Hearing and Notice of Hearing on Challenged Ballots and Objections is granted, in part, as it raises substantial issues warranting review. The Regional Director ordered a hearing with respect to the Employer's challenge to the ballot of voter Travis Schmidt on the ground that Schmidt submitted two ballots (an original and a duplicate) to the Regional Office, and the envelope containing the duplicate ballot did not have a postmark. We observe, however, that Section 11336.4 of the NLRB Casehandling Manual (Part Two) Representation Proceedings provides that "[i]n the event postmarks are not discernible, only the envelope bearing the earlier Regional Office date stamp should be counted." Here, it is undisputed that the envelope containing Schmidt's original ballot bears the earlier Regional Office date stamp. Accordingly, we see no need for a hearing on the challenge to Schmidt's ballot, and direct the Regional Director to open and count the Schmidt's original ballot consistent with the Casehandling Manual.

Additionally, because we have directed the Regional Director to open Schmidt's original ballot, we further reverse the Regional Director's decision to order a hearing on the Employer's objection relating to the Union's alleged collection and/or handling of Schmidt's duplicate ballot. As Schmidt's duplicate ballot will not be counted, and because the Employer does not contend that the Union collected any ballots other than Schmidt's duplicate ballot, this objection could not possibly serve as a basis for setting aside the election based on the facts alleged here, even if

ballot collection were proven. See *Fessler & Bowman, Inc.*, 341 NLRB 932, 935 (2004). Accordingly, no hearing is warranted on this objection. Review is denied in all other respects.<sup>1</sup>

LAUREN McFERRAN, CHAIRMAN

MARVIN E. KAPLAN, MEMBER

JOHN F. RING, MEMBER

Dated, Washington, D.C., September 28, 2021.

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<sup>1</sup> In denying review of the Regional Director's decision to sustain the challenges to the four strikers, we find it unnecessary to pass on the Regional Director's statement that a finding that the strike was caused by unfair labor practices may not be made in the present representation case. Rather, we find that the Union has not raised substantial issues warranting review with respect to the eligibility of the striking employees because its Request for Review fails to proffer a basis for finding that they were unfair labor practice strikers.

We further note that the Employer has filed a Request for Review of the Regional Director's Supplemental Order Granting Union's Request to Block Further Processing of Petition. The Employer's Request for Review remains pending and will be ruled on separately.